

# EXHIBIT 52

Page 1

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

IN RE:

RS FIT NW LLC,  
Debtors.

24 HOUR FITNESS  
WORLDWIDE, INC.,  
Plaintiff,

VS.

CONTINENTAL CASUALTY  
COMPANY, ET AL.,  
Defendants.

\*  
\* Chapter 11  
\*  
\* Case No.: 20-11558 (KBO)  
\* (Jointly Administered)  
\*  
\*  
\* Adv. Proc. No. 20-51051 (KBO)  
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ORAL AND VIDEOTAPED 30(b) (6) DEPOSITION OF

BEAZLEY-LLOYD'S SYNDICATES 2623/623

THROUGH ANDREA MATOTT

VOLUME 1

OCTOBER 11, 2022

(Reported Remotely)

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**NMA**  
COMPRESSED TRANSCRIPT

<p style="text-align: center;">Page 2</p> <p>1 ORAL AND VIDEOTAPED 30(b)(6) DEPOSITION of  2 BEAZLEY-LLOYD'S SYNDICATES 2623/623 through ANDREA  3 MATOTT, produced as a witness at the instance of the  4 Plaintiff, and remotely duly sworn, was taken in the  5 above-styled and numbered cause on October 11, 2022,  6 from 11:04 a.m. to 4:08 p.m., before Carol Jenkins, CSR,  7 RPR, CRR, in and for the State of Texas, reported by  8 machine shorthand, with the Witness in New Hampshire,  9 pursuant to the Federal Rules of Civil Procedure, the  10 Emergency Order Regarding the COVID-19 State of  11 Disaster, and the provisions stated on the record or  12 attached hereto.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 3</p> <p>1 REMOTE APPEARANCES:</p> <p>2</p> <p>3 FOR THE PLAINTIFF:  4 Ms. Nat Ochoa  5 Reed Smith LLP  6 101 Second Street, Suite 1800  7 San Francisco, California 94105  8 415.543.8700  9 nochoa@reedsmit.com</p> <p>7 FOR THE DEFENDANT, CONTINENTAL CASUALTY COMPANY:  8 Mr. Matthew S. Sarna  9 DLA Piper LLP  10 6225 Smith Avenue  11 Baltimore, Maryland 21209  12 410.580.3000  13 matt.sarna@us.dlapiper.com</p> <p>11 FOR THE STARR SURPLUS DEFENDANT:  12 Ms. Courtney Murphy  13 Hinshaw &amp; Culbertson  14 800 Third Avenue, Suite 1300  15 New York, New York 10022  16 212.471.6200  17 cmurphy@hinshawlaw.com</p> <p>15 FOR THE ALLIED WORLD DEFENDANT:  16 Mr. Austin Westergom  17 Mound Cotton  18 3 Greenway Plaza, Suite 1300  19 Houston, Texas 77056  20 281.572.8350  21 bwestergom@moundcotton.com</p> <p>19 FOR THE ALLIANZ DEFENDANT:  20 Ms. Marlie McDonnell  21 Clyde &amp; Co  22 271 17th Street NW, Suite 1720  23 Atlanta, Georgia 30363  24 404.410.3150  25 marlie.mcdonnell@clydeco.us</p>																																																												
<p style="text-align: center;">Page 4</p> <p>1 FOR THE LIBERTY MUTUAL FIRE DEFENDANT:  2 Mr. Joel L. McNabney  3 Robinson &amp; Cole LLP  4 777 Brickell Avenue, Suite 680  5 Miami, Florida 33131  6 786.725.4119  7 jmcnabney@rc.com</p> <p>5 ALSO PRESENT:  6 The Videographer, Ms. Jessica Rawls</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 5</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 50%;">INDEX</th> <th style="text-align: right; width: 50%;">PAGE</th> </tr> </thead> <tbody> <tr> <td>2 Appearances</td> <td style="text-align: right;">02</td> </tr> <tr> <td>3 Stipulations</td> <td style="text-align: right;">01</td> </tr> <tr> <td>4 ANDREA MATOTT</td> <td></td> </tr> <tr> <td>5 Examination by Ms. Ochoa</td> <td style="text-align: right;">07</td> </tr> <tr> <td>6 Signature and Jurat</td> <td style="text-align: right;">222</td> </tr> <tr> <td>7 Reporter's Certificate</td> <td style="text-align: right;">223</td> </tr> <tr> <td>8</td> <td></td> </tr> <tr> <td>9</td> <td></td> </tr> <tr> <td>10 EXHIBITS</td> <td></td> </tr> <tr> <td>11</td> <td></td> </tr> <tr> <td>12 NO. DESCRIPTION</td> <td style="text-align: right;">PAGE</td> </tr> <tr> <td>13 Exhibit A</td> <td style="text-align: right;">14</td> </tr> <tr> <td>14 Plaintiff's Amended Notice of 30(b)(6)</td> <td></td> </tr> <tr> <td>15 Deposition to Beazley-Lloyd's Syndicates 2623/623</td> <td></td> </tr> <tr> <td>16 Exhibit B</td> <td style="text-align: right;">37</td> </tr> <tr> <td>17 Ms. Matott's New Claim Acknowledgment Letter</td> <td></td> </tr> <tr> <td>18</td> <td></td> </tr> <tr> <td>19 Exhibit C</td> <td style="text-align: right;">53</td> </tr> <tr> <td>20 McLaren's First Coronavirus Claim Report</td> <td></td> </tr> <tr> <td>21 Exhibit D</td> <td style="text-align: right;">60</td> </tr> <tr> <td>22 Email String Bates LYDSCLM 521-23</td> <td></td> </tr> <tr> <td>23 Exhibit E</td> <td style="text-align: right;">75</td> </tr> <tr> <td>24 Email Bates LYDSCLM 477</td> <td></td> </tr> <tr> <td>25 Exhibit F</td> <td style="text-align: right;">79</td> </tr> <tr> <td>26 Screenshot Bates LYDSCLM 77</td> <td></td> </tr> <tr> <td>27 Exhibit G</td> <td style="text-align: right;">84</td> </tr> <tr> <td>28 Screenshot Bates LYDSCLM 359</td> <td></td> </tr> <tr> <td>29 Exhibit H</td> <td style="text-align: right;">85</td> </tr> <tr> <td>30 Screenshot Bates LYDSCLM 365</td> <td></td> </tr> </tbody> </table> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	INDEX	PAGE	2 Appearances	02	3 Stipulations	01	4 ANDREA MATOTT		5 Examination by Ms. Ochoa	07	6 Signature and Jurat	222	7 Reporter's Certificate	223	8		9		10 EXHIBITS		11		12 NO. DESCRIPTION	PAGE	13 Exhibit A	14	14 Plaintiff's Amended Notice of 30(b)(6)		15 Deposition to Beazley-Lloyd's Syndicates 2623/623		16 Exhibit B	37	17 Ms. Matott's New Claim Acknowledgment Letter		18		19 Exhibit C	53	20 McLaren's First Coronavirus Claim Report		21 Exhibit D	60	22 Email String Bates LYDSCLM 521-23		23 Exhibit E	75	24 Email Bates LYDSCLM 477		25 Exhibit F	79	26 Screenshot Bates LYDSCLM 77		27 Exhibit G	84	28 Screenshot Bates LYDSCLM 359		29 Exhibit H	85	30 Screenshot Bates LYDSCLM 365	
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1	Exhibit I 89 Screenshot Bates LYDSCLM 366	1 THE VIDEOGRAPHER: Good morning. Today is
2	Exhibit J 95 Screenshot Bates LYDSCLM 246	2 Tuesday, October 11th, 2022. The time is 11:04 a.m.,
3	Exhibit K 97 Screenshot Bates LYDSCLM 247	3 and we are now on the record.
4	Exhibit L 106 Beazley's Insurance Policy for 24 Hour Fitness	4 THE REPORTER: Good morning. My name is
5	Exhibit M 141 COVID-19 Changing Claims Patterns AGCS Article	5 Carol Jenkins reporting this remotely from Chambers
6	Exhibit N 146 Mr. Allen's Draft Letter to Mr. Gottlieb	6 County, Texas, and the witness is in New Hampshire.
7	Exhibit O 149 McLarens Second Coronavirus Claim Report	7 ANDREA MATOTT,
8	Exhibit P 164 McLarens Third COVID-19 Pandemic Report	8 having been first remotely duly sworn, testified as
9	Exhibit Q 187 McLarens Fourth COVID-19 Pandemic Report	9 follows:
10	Exhibit R 202 McLarens Fifth COVID-19 Pandemic Report	10 EXAMINATION
11	Exhibit S 205 McLarens Sixth Reply Requested Document	11 BY MS. OCHOA:
12	Exhibit T 207 McLarens Seventh COVID-19 Pandemic Report	12 Q. Good morning, Ms. Matott. My name's Natalie
13	Exhibit U 210 Email String Bates AGRUS 1005-11	13 Ochoa, and I'm an attorney representing 24 Hour Fitness
14	Exhibit V 217 McLarens Eighth COVID-19 Pandemic Report	14 in this case.
15		15 How are you?
16		16 A. Good morning. Good.
17		17 How are you?
18		18 Q. Good. Doing well.
19		19 Can you please spell and state your name
20		20 for the record, your full name?
21		21 A. Sure. It's Andrea Smith, S-m-i-t-h. I go by
22		22 Andrea Matott for work.
23		23 Q. Great. Is it okay if I call you Ms. Smith for
24		24 purposes of this deposition?
25		25 A. Sure.
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1	Q. Are you in your home office today, or are you 2 in your physical office?	1 any text messages, chats, emails or any other form of
3	A. A home office.	2 communications as we go throughout the day?
4	Q. Great. And did your office shut down at all 5 during the pandemic?	3 A. Yes.
6	A. Yes. Well, the offices closed, but business 7 continued as usual.	4 Q. And can you affirm that you won't review any
8	Q. When did it physically close, if you recall?	5 notes or documentation other than what I pull up on the
9	A. I -- I don't recall. I've been working remote 10 for years, so...	6 screen and ask you to open?
11	Q. Okay. So would you guess the physical office 12 closed sometime when COVID started around March 2020?	7 A. Yes.
13	MS. MURPHY: Objection.	8 Q. Did you bring any notes with you today?
14	THE WITNESS: I'm sorry.	9 A. No.
15	MS. MURPHY: Go ahead.	10 Q. Is anyone in the room with you at all?
16	A. I guess that would be a good guess.	11 A. No.
17	Q. (By Ms. Ochoa) Great. And do you know when it 18 reopened?	12 Q. If someone ever throughout the deposition joins
19	A. I don't specifically recall when they reopened. 20 But we have offices throughout the United States, so 21 they might have been staggered openings.	13 you in the room or you get a knock on the door, your
22	Q. Okay. So I'd like to go over just a couple of 23 ground rules before we start the deposition relating to 24 the fact that the deposition is remote.	14 counsel just affirmly should disclose their presence and
25	Can you please confirm that you'll not use	15 identify them on the record and then we can move 16 forward.
		17 Does that sound fair?
		18 A. Sure.
		19 Q. Have you ever given any testimony before?
		20 A. Yes.
		21 Q. And was that at a trial or a deposition?
		22 A. Both.
		23 Q. How many times would you say you've given
		24 testimony in a deposition?
		25 A. Oh. Over the course of 30 years, ten plus.

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<p>1 provide access and use to customers?</p> <p>2 A. I think it --</p> <p>3 MS. MURPHY: Objection.</p> <p>4 A. I think it --</p> <p>5 MS. MURPHY: Go ahead.</p> <p>6 A. -- frustrated many businesses.</p> <p>7 Q. (By Ms. Ochoa) Right. Like 20 -- it frustrated 24 Hour's business in that report?</p> <p>8 A. Right. And I don't -- I don't think that there's an issue with regards to the closing. The problem is is, you know, did they have COVID on the premises and were they actually closed because they were prohibited by a civil authority. That's what we were trying to confirm.</p> <p>9 Q. Right. And prohibited by a civil authority with regard to the public could mean that the government order said that the public can't enter the building. That would qualify as prohibited access?</p> <p>10 MS. MURPHY: Objection.</p> <p>11 A. No, well, I think the government orders were more closing orders just, in general, issued for all businesses to stop the spread of COVID. What we needed here for this claim was specific closure orders for the -- for the locations that were involved.</p> <p>12 Q. (By Ms. Ochoa) Let me ask it this way.</p>	<p>1 Doesn't a customer being unable to access a gym because a government order says that the public cannot access the gym, doesn't a customer being unable to do that frustrate the intended purpose of 24 Hour Fitness catering to its customers?</p> <p>2 MS. MURPHY: Objection.</p> <p>3 Go ahead.</p> <p>4 A. Well, I would assume that would be frustrating.</p> <p>5 But again, what we had in regards to the claim and the policy, we needed actual verification that there was COVID on the presence -- present on the premises and that the actual location was closed and prohibited because of that. And we didn't have any of that information.</p> <p>6 Q. (By Ms. Ochoa) Let's go to sub (a) here. It says: All coverage involved must be directly resulting from access being prohibited to a described location or any portion thereof (a) due to the actual presence of and the spread of communicable diseases at the described location.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you agree that if someone infected with COVID-19 entered a 24 Hour location, that COVID-19 would be present at that location?</p>
<p>10 Page 120</p> <p>1 A. If somebody tested positive and were, you know, within reason on the premises, I would say yes, I could agree that the potential for COVID would be at the premises.</p> <p>2 But again, in order for the coverage to apply, the closure must have been as the result of being on the premises and prohibited by a civil authority.</p> <p>3 Q. I want to just focus on this specific subdivision. I understand what you're saying about the closure, and we went over that.</p> <p>4 But with regard to this --</p> <p>5 A. Okay.</p> <p>6 Q. -- specific subdivision here, that due to the actual presence and spread of the communicable disease, would you agree that if someone tested positive for COVID-19 and walked into a 24 Hour Fitness gym, that COVID-19 would be present at the gym at that time?</p> <p>7 A. Well, the person --</p> <p>8 MS. MURPHY: Objection. Well, hold on.</p> <p>9 THE WITNESS: Yeah.</p> <p>10 MS. MURPHY: Objection, asked and -- asked and answered.</p> <p>11 Go ahead.</p> <p>12 A. Yeah. I was going to say the person would have the COVID. But would they -- you know, were they</p>	<p>11 Page 121</p> <p>1 wearing a mask? You know, could you tell that it was spread to anybody else reporting issues? Were there incident reports? Again, you know, in order to turn around and confirm, you know, what was covered, we'd have to turn around and get that information.</p> <p>2 I don't necessarily need names, but, you</p> <p>3 know, something in location so that I could confirm the</p> <p>4 presence and then have the order, the civil authority</p> <p>5 order, documented that that described location was closed because of that exposure.</p> <p>6 Q. (By Ms. Ochoa) Sure. And if 24 Hour Fitness showed you that a person was in the gym with COVID-19, are you saying that that would not mean that COVID was present on the premises?</p> <p>7 A. No. I think I said if the person had COVID-19 and we could document that they had the COVID-19 and walked into that gym, I would agree that there was COVID present in the person.</p> <p>8 Q. COVID present when?</p> <p>9 A. With the person who had COVID-19.</p> <p>10 Q. Okay.</p> <p>11 A. Present in the gym with the person who had COVID-19, right.</p> <p>12 MS. MURPHY: Objection. Let's not rephrase her answer, but go ahead.</p>

<p style="text-align: center;">Page 134</p> <p>1 had communicable disease endorsements?    2 A. There might have been some, but no specific    3 recollection.    4 Q. Okay. So then you can't confirm or deny    5 whether the ones that did have a communicable disease    6 endorsement resulted in coverage?    7 A. Right.    8 Q. Okay. You touched on this a bit earlier, but    9 around the time that you were putting in -- you were    10 considering the communicable disease endorsement, did    11 you consider whether any other coverage provisions in    12 the policy might apply to this claim?    13 A. I would have looked at the rest of the policy,    14 yes. You know, that there's another civil -- civil    15 authority provision, an ingress/egress as far as how    16 that would -- and I look at the -- I'd like to think I    17 look at the totality of the policy, so...    18 Q. Did you ever attempt to evaluate whether there    19 might be coverage under the civil authority provision?    20 A. I would have, yes, but I would have still    21 needed some of the same information that we had    22 requested to confirm what damage there may be.    23 Q. Is it fair to say that you never made a    24 determination about whether there could be coverage    25 under that provision?</p>	<p style="text-align: center;">Page 135</p> <p>1 A. I don't think we made a determination on    2 anything based on the information that had been    3 provided. It wasn't enough.    4 Q. And did you discuss that with anybody at    5 Beazley?    6 A. No.    7 Q. Did you review the general business    8 interruption coverage section of the policy?    9 A. I would have, yes.    10 Q. And did you ever make determinations about    11 whether there could be coverage under that provision?    12 A. We didn't have enough information to confirm if    13 there was any damage and what was -- what the claim was.    14 Q. And did you ever discuss that with anyone?    15 A. No.    16 Q. Around the time that you were assigned to work    17 on the 24 Hour Fitness claim in March of 2020, were you    18 aware of any measures that were available to test for    19 the presence of COVID-19 inside of a business location?    20 A. At the time it was submitted, no. I still    21 don't know if there are any. But a good indicator would    22 be if somebody was on the premises, you know, I would    23 have probably considered that to, you know, again,    24 within that time frame, you know, to potentially    25 satisfy, assuming we had a closure prohibiting access</p>
<p style="text-align: center;">Page 136</p> <p>1 and all that other good stuff, I might have considered    2 that sufficient under that endorsement.    3 Q. Okay. So --    4 A. As long -- as long as the conditions were met.    5 Q. Okay. So have you ever -- you kind of just    6 touched upon this, but I just want to clarify. Have you    7 ever been made aware of any measures that are available    8 to test for the presence of COVID-19 in a business    9 location at any time outside of the presumption that    10 COVID might be there if all those other things we talked    11 about were met?    12 A. I haven't done any research on that, no.    13 Q. Okay. So you're not aware one way or the    14 other?    15 A. No.    16 Q. To your knowledge, did Beazley do any testing    17 of an insured business location for the presence of    18 COVID?    19 A. No. We would not do that.    20 Q. And why is -- why would you not do that?    21 A. We're not set up or anything equipped to turn    22 around and go out and test somebody else's property. I    23 wouldn't do that anyway. Neither was --    24 Q. Because you're not in the business of doing    25 that?</p>	<p style="text-align: center;">Page 137</p> <p>1 A. No, I would just say --    2 MS. MURPHY: Objection.    3 Go ahead.    4 THE WITNESS: Sorry.    5 MS. MURPHY: That's okay.    6 A. I would say that, you know, say there, you    7 know, was -- there was damage and a collapse. I might    8 send an engineer out to turn around and review the    9 property. Here we had no evidence of damage. So there    10 was nothing for -- for us to go out and have Beazley    11 test for, so...    12 Q. (By Ms. Ochoa) So in the case of sending an    13 engineer to go out and assess damage, you didn't --    14 would it have not been possible for you to have directed    15 a different, I don't know, an equivalent to an engineer,    16 but in this case to go out and test for the presence of    17 COVID-19 at the insured location?    18 A. No. Based --    19 MS. MURPHY: Objection.    20 Go ahead.    21 THE WITNESS: I'm sorry, Courtney.    22 MS. MURPHY: That's okay.    23 A. Based on the -- based on the information that    24 was provided, you know, there wasn't sufficient    25 information for us, especially if you, you know, read</p>

<p style="text-align: center;">Page 138</p> <p>1 what was sent in. You know, within 72 hours, time takes  2 it -- you know, by the time we're getting this  3 information, you know, it would have been too late  4 anyway for us to try and even consider sending somebody  5 out.  6 But, you know, at this point, there was no  7 damage, you know, for us to investigate. So, no, we  8 didn't consider sending anybody out.</p> <p>9 Q. (By Ms. Ochoa) But wasn't 24 Hour Fitness  10 providing you with certain examples of when a person  11 tested positive for COVID-19?</p> <p>12 A. Without information supporting when they were  13 there within that time frame, and they themselves  14 acknowledged that in time all this would not be there,  15 so no.</p> <p>16 Q. Outside of the person, do you not think it was  17 possible for you to have sent somebody to test the  18 building, like whether the physical building had  19 COVID-19?</p> <p>20 A. Well, I would -- I would turn around and say  21 what -- what was the damage? You know, I mean, if  22 there's damage and we were -- we felt an expert was  23 warranted, we would have sent somebody out. Here, we  24 didn't have anything demonstrating damage. So we did  25 not feel it was warranted to send anybody out.</p>	<p style="text-align: center;">Page 139</p> <p>1 Q. Okay. Have you ever seen any guidance that  2 Beazley published for its policyholders to give advice  3 as to how to test for the presence of COVID-19 at a  4 location?</p> <p>5 A. No.</p> <p>6 Q. Have you ever read any literature that  7 discussed the testing of an insured business location  8 for the presence of COVID?</p> <p>9 A. No.</p> <p>10 Q. As part of the investigation of the 24 Hour  11 Fitness claim that McLaren's did, to your knowledge, did  12 anyone from McLaren's ever visit a 24 Hour Fitness  13 location?</p> <p>14 A. I don't believe -- I don't believe they did.</p> <p>15 Q. On any claims that you have worked on, have you  16 ever had a market adjuster go and visit a location where  17 a loss took place?</p> <p>18 A. Well, what do you mean by loss?</p> <p>19 Q. Where an alleged loss occurred. Have you ever  20 had an adjuster go out and assess potential damage or  21 loss at a location that's being claimed?</p> <p>22 A. As a result of COVID-19? Or, I mean, what --</p> <p>23 MS. MURPHY: Yeah.</p> <p>24 A. I'm a little confused right now.</p> <p>25 Q. (By Ms. Ochoa) So as a result of COVID --</p>
<p style="text-align: center;">Page 140</p> <p>1 well, let's go as a result of COVID-19, have you ever  2 had a market adjuster go and visit a location where --  3 A. Okay.</p> <p>4 Q. -- the alleged loss took place?</p> <p>5 A. I think I had one that went out in California.  6 He went out and took some pictures. Maybe in Florida,  7 but I don't remember specifically offhand. Not many.</p> <p>8 Q. Do you know why that was a decision to go out  9 at that point and not in this case?</p> <p>10 A. He might have had the time. He might have been  11 in the area. It might have been in discussion with an  12 insured. I don't remember the specifics with regards to  13 those.</p> <p>14 Q. What about generally outside of the COVID  15 context? You mentioned one or two instances where a  16 market adjuster went out with regard to a COVID case,  17 but what about outside of the COVID context? Have you  18 ever had an adjuster go out and visit a location where  19 an alleged loss took place?</p> <p>20 A. Usually, you know, we're dealing with property  21 damage claims. So anything that comes in would have  22 some component of damage, which you'd probably want to  23 inspect. So I would say in that context, yes, we send  24 out adjusters to inspect.</p> <p>25 Q. Would you say it's common to do that?</p>	<p style="text-align: center;">Page 141</p> <p>1 A. To confirm damages being claimed? Yes.</p> <p>2 Q. Okay. Let's mark Exhibit M.  3 (Exhibit M marked.)</p> <p>4 Q. (By Ms. Ochoa) And I will share my screen.</p> <p>5 A. Okay.</p> <p>6 Q. Okay. Do you see this?</p> <p>7 A. Yes.</p> <p>8 Q. So I'll just give you -- I'll start slowly  9 skimming down just so you can kind of see what this is,  10 and then I'll direct your attention to a specific page  11 that we can discuss.</p> <p>12 So this -- I'll represent that this is a  13 publication by another market insurer, Allianz; and it's  14 titled COVID-19 Changing Claims Patterns.</p> <p>15 MS. MURPHY: Okay. Before we just kick  16 off on this, I just want to make sure that the record is  17 clear that obviously that this is a 30(b)(6) for  18 Beazley. And to the extent that you're asking questions  19 of this witness of an AGCS publication that she's not  20 seen before, I will object to that.</p> <p>21 But having said that, you can proceed.</p> <p>22 But I'm going to stay tight to the 30(b)(6) notice that  23 you guys drafted. And there was nothing in that  24 30(b)(6) notice where we would be asked to speak about  25 articles such as this drafted by other insurers. And so</p>

<p style="text-align: center;">Page 190</p> <p>1           Jeremy replies: The following incidents  2        regarding COVID-19 at our locations had been identified  3        to us at around the time of closing of our facilities on  4        March 16th, 2020. Of course, we assume that there were  5        many other incidents that were not reported,  6        particularly incidents related to members or other  7        visitors to our clubs.</p> <p>8           At present we have nothing to report with  9        respect to any decontamination/cleanup costs.</p> <p>10          First, do you remember any discussions  11        with the market about going back and asking Mr. Allen  12        follow-up questions?</p> <p>13          A. Nothing specific. I mean, Mike -- as I said,  14        Mike's a qualified adjuster. So this may have been some  15        additional follow-up that he was looking for as well  16        because he knew that he'd be asked. So I don't remember  17        anything specific, so...</p> <p>18          Q. Do you recall seeing this information that 24  19        Hour Fitness provided, right, the incidents that are  20        laid out here?</p> <p>21          A. Yes, as part of the report.</p> <p>22          Q. Do you recall any discussions with anyone about  23        the information that 24 Hour Fitness provided?</p> <p>24          A. Nothing specific.</p> <p>25          Q. Was an investigation done with Beazley to</p>	<p>1        follow up on any of the specific instances that were  2        identified by Mr. Grieb? Gottlieb, excuse me.</p> <p>3          A. Yeah, I think it was something later on when we  4        sent the -- the additional reservation of rights wherein  5        we followed up for additional information.</p> <p>6          So, for example, you know, they had an  7        individual on March 8th who tested positive on March  8        11th, it says, was in our Whippany.</p> <p>9          So on this one here, we would have asked  10        for the cleanup costs and stuff like that. But up  11        above, he says that he doesn't have any.</p> <p>12          So the additional question would have  13        been, you know, did you have an actual closure for that  14        particular location pursuant to the -- the endorsement  15        for communicable diseases. And the same would have --  16        would have been done for the remaining to confirm, you  17        know, again, that time frame that we were talking --</p> <p>18          Q. Uh-huh.</p> <p>19          A. -- about earlier, you know, that some people  20        were exposed, but we're not sure if they ever tested.  21        So we don't know if they actually had COVID so that we  22        could confirm that there was COVID on the premises. You  23        know, present on the premises and all that other stuff.</p> <p>24          So it would have been, you know, part of  25        that, all these questions here looking for that</p>
<p style="text-align: center;">Page 192</p> <p>1        documentation to include the civil authority orders for  2        the locations.</p> <p>3          Q. Taking out the civil authority question that we  4        talked about, let's take for example this first bullet.</p> <p>5          A. Uh-huh.</p> <p>6          Q. It says: On or about March 8th, 2020, an  7        individual was in our Whippany who tested positive for  8        COVID-19 on March 11th, 2020.</p> <p>9          A. Uh-huh.</p> <p>10         Q. What about that specific bullet point was  11        insufficient? I know that you mentioned earlier the  12        time frame when the person contracted or tested positive  13        for COVID-19.</p> <p>14         Can you think of anything else that was  15        insufficient about this bullet outside of the time frame  16        that you mentioned?</p> <p>17         A. In this one here, I might like to know if there  18        were other people that potentially tested positive at  19        this location, because this individual who tested  20        positive three days later could have been someplace else  21        when he contracted, you know.</p> <p>22         And like I said, I don't need names if  23        they were concerned about privacy and everything. But,  24        you know, was there any consistency? Were there more  25        people, you know, because given the three days and the</p>	<p>1        72 hours that, you know, it's all done and over with,  2        you know, could this individual have been someplace else  3        when they contracted. So I would have liked to have  4        seen that.</p> <p>5         You know, was there an incident report  6        filed? You know, did they notify the -- did they have  7        to notify the health authorities? Do they have that  8        report?</p> <p>9         They said they don't have any  10        decontamination or cleanup costs. But, you know, did  11        they try to do anything, you know, that would be  12        something that I could do an equivalent, you know,  13        toward that 2.5 million in coverage, you know, so that I  14        could confirm and evaluate, you know, what it was?</p> <p>15         Did -- we know that they shut down; but,  16        you know, how long did it turn around and take to clean  17        up.</p> <p>18         You know, so it's all tied to direct --  19        you know, to that damage to that location that would  20        need -- that we would need the information to evaluate,  21        you know, putting aside the COVID -- sorry, the civil  22        authority order.</p> <p>23         So, you know, that alone is not sufficient  24        to -- for me to turn around and say, oh, yeah, you had a  25        million dollar loss. Here you go. You know, it's</p>

<p style="text-align: center;">Page 194</p> <p>1 just --</p> <p>2 Q. So --</p> <p>3 A. The information is just not there.</p> <p>4 Q. So when we're looking at this one bullet --</p> <p>5 A. Yeah.</p> <p>6 Q. -- you mentioned time frame, whether there are</p> <p>7 other people at the location that tested positive,</p> <p>8 whether there's an incident report filed.</p> <p>9 A. Maybe a health -- anything. Anything to help</p> <p>10 us to evaluate it. You know, what did you lose? You</p> <p>11 know, you're saying that you closed, you know, what's --</p> <p>12 what's the loss, you know.</p> <p>13 Q. Did the insurers expressly ask anywhere in this</p> <p>14 question or in the questions that we previously reviewed</p> <p>15 for the -- expressly ask the exact time frame, whether</p> <p>16 other -- other people were in the location, whether an</p> <p>17 incident report was filed, did Beazley or the insurers</p> <p>18 ever ask that specifically of 24 Hour Fitness?</p> <p>19 A. I think you're looking at a snapshot in time.</p> <p>20 And, you know, as I said, you know, you're looking at a</p> <p>21 fluid event, you know, so that as responses are coming</p> <p>22 in, these are the things going through your mind and how</p> <p>23 you can turn around and support and evaluate the claim.</p> <p>24 So, you know, I'm looking at this, and I</p> <p>25 would say to my insured, hey, you know, this is what</p>	<p style="text-align: center;">Page 195</p> <p>1 we're going to need to turn around and evaluate the</p> <p>2 coverage under the policy.</p> <p>3 So to turn around and simply look at the</p> <p>4 snapshot here, I think you need to look at it in its</p> <p>5 totality. So that when you're looking at the -- the</p> <p>6 next letter that goes out, it's explaining some of this</p> <p>7 stuff.</p> <p>8 Now, did Mike have any of these specific</p> <p>9 conversations, you know, with either Karen or Jeremy? I</p> <p>10 don't know. But these are --</p> <p>11 Q. I think I'm asking --</p> <p>12 A. Yeah.</p> <p>13 Q. Oh, I'm sorry. Go ahead.</p> <p>14 A. I'm just saying that, you know, to -- you're</p> <p>15 looking at a snapshot in time. And I just -- I don't,</p> <p>16 you know, to see this now, I think if you look at the</p> <p>17 follow-up letter that went out, I think it addressed</p> <p>18 some of these issues.</p> <p>19 Q. I think I'm asking something a little bit more</p> <p>20 targeted.</p> <p>21 Do you have -- are you aware of any</p> <p>22 documentation with questions or a statement asking 24</p> <p>23 Hour Fitness to specifically provide the information</p> <p>24 regarding the timeline, the other people at the</p> <p>25 location, the incident report, everything that we just</p>
<p style="text-align: center;">Page 196</p> <p>1 talked about, are you aware of a specific document or</p> <p>2 question asked that the insurers asked of 24 Hour?</p> <p>3 A. I think that supports probably was used.</p> <p>4 Please support your claim. What information do you have</p> <p>5 that supports your claim? I just tossed these out as</p> <p>6 things that could -- could have been used to support the</p> <p>7 claim.</p> <p>8 Q. Okay.</p> <p>9 A. So if I'm looking --</p> <p>10 Q. So maybe --</p> <p>11 A. Yeah, so if I'm looking for support of a claim,</p> <p>12 you know, you and I are sitting here having a</p> <p>13 conversation, all those things could have been used as</p> <p>14 evidence to support these bullet points or the insured's</p> <p>15 claim.</p> <p>16 So, I mean, it doesn't have to be specific</p> <p>17 to this one thing. I think that that's being a little</p> <p>18 too tight on the draw. I think what we're looking for</p> <p>19 is anything that could have supported a claim, and I</p> <p>20 just tossed those out as suggestions.</p> <p>21 Q. But if you're asking the insured to provide</p> <p>22 information supporting a claim, how is the insured ever</p> <p>23 going to know what information to provide that you're</p> <p>24 looking for, like the things that you listed as an</p> <p>25 example?</p>	<p style="text-align: center;">Page 197</p> <p>1 A. Well, who better would have that information</p> <p>2 than the insured. Hey, I've got a claim, I closed my</p> <p>3 operation. Look, here's the order of civil authority</p> <p>4 prohibiting access. Here's the cleanup bills, you know,</p> <p>5 that I -- you know, that I incurred to turn and clean</p> <p>6 these locations. This is the incident report, you know,</p> <p>7 that was filed. Look, here's the health report that was</p> <p>8 filed. You know, I mean, I just -- I don't -- I don't</p> <p>9 think that that's a fair assessment in what's going on</p> <p>10 here.</p> <p>11 Q. Isn't the insurance company in a better</p> <p>12 position to know exactly what their policy should say</p> <p>13 and exactly what they need to support coverage?</p> <p>14 MS. MURPHY: Objection, form.</p> <p>15 A. No. I think it can be intuitive as well. I</p> <p>16 mean, if I'm submitting a claim and I know somebody is</p> <p>17 looking for something, like if -- if I said that, you</p> <p>18 know, it cost me \$1,000 to turn around and have my car</p> <p>19 repaired, I'd know that I should probably have that</p> <p>20 \$1,000 estimate available. I think it's the same thing</p> <p>21 here.</p> <p>22 Q. (By Ms. Ochoa) But you can acknowledge that</p> <p>23 COVID-19 was a fluid situation, and these claims weren't</p> <p>24 the typical claims that were -- had been present before?</p> <p>25 In other words, how could you expect 24 Hour Fitness to</p>

Page 210	Page 211
<p>1 Q. Okay. And you didn't --</p> <p>2 A. And I didn't --</p> <p>3 Q. -- go to --</p> <p>4 A. Oh, sorry. And I was going to say I wouldn't think that they'd have their income records on there either, so...</p> <p>7 Q. You didn't go there just to look at what locations reopened and what remained closed?</p> <p>9 A. No. I would assume I would have gotten that as part of the support for the claim.</p> <p>11 Q. Okay. All right. Let's mark Exhibit 12.</p> <p>12 (Exhibit U marked.)</p> <p>13 Q. (By Ms. Ochoa) This is an email from Mike Allen to, it looks like, a variety of the different market insurers' representatives. And it appears that you're included on this email, and it's dated July 2nd, 2020.</p> <p>18 A. Right.</p> <p>19 Q. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And then if we go down to here, this is an email from Odell Bradley.</p> <p>23 Do you know who Odell Bradley is?</p> <p>24 A. No. Other than that he's at CNA, because that's what it says in the email.</p>	<p>1 Q. Okay. Do you know that he was responsible for the claim at CNA?</p> <p>3 A. Just based on the email, I would say okay.</p> <p>4 Q. And are you aware that the other individuals listed on this email are handlers or adjusters for the other carriers relating to this claim?</p> <p>7 A. That's what I would assume, yes.</p> <p>8 Q. Okay. And this is the email from Odell to everyone that we just talked about dated June 25th --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- 2020. And it says: Market, after further review of endorsement for interruption by communicable disease, I believe it is best to engage coverage counsel moving forward.</p> <p>15 And then it appears that he copied and pasted the interruption by communicable disease endorsement and says: There seems to be a good chance business interruption coverage will be triggered. I think we all agree.</p> <p>19 Do you see that?</p> <p>21 A. Uh-huh. Yes. Sorry.</p> <p>22 Q. By the time this email was written in June 20 -- at June 25th, 2020, the insurers had already received a number of responses from 24 Hour Fitness that we've looked at today, right?</p>
<p style="text-align: center;">Page 212</p> <p>1 A. Yes.</p> <p>2 Q. And had market calls prior to the sending of this email, right?</p> <p>4 A. Correct.</p> <p>5 Q. And Mr. Bradley's comment that there seems to be a good chance business information was -- business interruption coverage was triggered was based on information that the market had at that point in the calls that took place, right?</p> <p>10 A. Right.</p> <p>11 Q. And do you agree with Mr. Bradley's statement that there's a good chance business interruption will be triggered?</p> <p>14 MS. MURPHY: Objection.</p> <p>15 Go ahead.</p> <p>16 A. I don't agree with how he's worded it. I think he should have put could be triggered assuming the conditions under the endorsement were met. And as we've talked, I didn't have enough information. And if he felt comfortable making that comment, then he was making the comment on behalf of CNA, not on behalf of underwriters.</p> <p>23 Q. (By Ms. Ochoa) Did his assessment -- do you think his assessment reflected discussions with the market up until that point in the answers received from</p>	<p style="text-align: center;">Page 213</p> <p>1 24 Hour?</p> <p>2 A. No.</p> <p>3 MS. MURPHY: Objection.</p> <p>4 Go ahead.</p> <p>5 A. No, I don't.</p> <p>6 Q. (By Ms. Ochoa) Why not?</p> <p>7 A. Because we were continuing to request supports for the claim. So it could have been just an off-the-cuff thing. You'd have to ask Mr. Odell why he sent this email.</p> <p>11 I don't agree with it, and quite clearly, nothing has been paid because we don't have the information that we've -- that we've discussed to support the claim.</p> <p>15 Q. So if you didn't agree with Mr. Bradley at the time that he sent this email, did you ever respond to him to let him know that you did not agree with this statement?</p> <p>19 A. I don't -- I didn't think I needed to send anything to him. It could have been the subject of a follow-up call later on. It could have been a discussion that may have been had by the market at a later point in time. I don't -- I don't remember.</p> <p>24 But, you know, to me, I wasn't concerned with his comment because I knew what I needed as for</p>

<p style="text-align: center;">Page 214</p> <p>1 Beazley and for underwriters to evaluate the claim 2 pursuant to the communicable disease endorsement. So I 3 wasn't worried about what Mr. Odell had to say. 4 Q. So you didn't think it was important to correct 5 an alleged incorrect statement regarding whether 6 coverage was triggered? 7 A. No, not to him because he could be looking at 8 it in a different situation. He could have had 9 discussions internally. There could be a lot of things 10 going on that I'm not aware of that would have made him 11 put something like that together. You'd have to ask Mr. 12 Odell. 13 Q. Are you aware -- do you know whether Beazley 14 produced this email thread in this case? 15 A. I don't know. It doesn't concern me, so I 16 don't know. 17 Q. I'll represent that this was produced by 18 Allianz, and it was not produced by Beazley in this 19 case. 20 A. Okay. I'm not concerned about it. If that's 21 the case, we can look for it. But I'm not overly 22 concerned with it because it didn't -- as we've 23 discussed throughout the entirety of this deposition, 24 the conditions of the endorsement weren't met. And 25 something said by another carrier doesn't turn around</p>	<p style="text-align: center;">Page 215</p> <p>1 and mean that I agree with it or that it's something 2 that we would have acted upon or felt the need to act 3 upon. That's -- that's his commentary. And even if you 4 look at it, he waffles at the end and goes back and 5 forth even questioning himself. 6 So to me, in addition to all of that, it 7 just seems as though he maybe didn't understand the 8 endorsement. 9 Q. Maybe he didn't understand what the endorsement 10 was saying? 11 A. Right. The conditions of the endorsement. 12 Q. Okay. If this wasn't produced by -- do you 13 remember whether you saved this document in the claims 14 file? 15 A. If it's in the claims file, it's in the claims 16 file. You know, I mean -- 17 Q. So if it's -- go ahead. 18 A. -- if it's there, it's there. I mean, as I 19 said, you know, I tried to keep things that I felt were 20 material to the claim. And obviously, I don't think 21 this is material to my claim file, so... 22 Q. And you don't think it was material to your 23 claim file because it was an email from a different 24 insurer regarding whether coverage was triggered? 25 A. I think he's musing as to whether or not the</p>
<p style="text-align: center;">Page 216</p> <p>1 coverage was triggered. So, you know, musings, you 2 know, and my understanding of what the coverage was, you 3 know, two different things. 4 Q. To your knowledge, did anyone respond to this 5 email in writing other than to schedule a market call 6 which -- 7 A. Yeah, I don't remember offhand. 8 Q. Okay. You touched upon this a little bit. The 9 second paragraph says: However, there is a question 10 based on language of the endorsement that is not 11 straightforward specifically speaking to business 12 interruption. 13 Had the market had any discussions about 14 the language of the endorsement prior to Mr. Bradley's 15 email that the language was not straightforward? 16 A. And I don't recall anything specific about 17 that. 18 Q. Do you recall any discussions about the 19 language of the policy not being straightforward after 20 this email was sent? 21 A. No. I think the endorsement speaks for itself. 22 I think the policy speaks for itself. 23 Q. But you acknowledge that one of the insurers, 24 Mr. Bradley -- 25 A. Didn't understand it?</p>	<p style="text-align: center;">Page 217</p> <p>1 Q. -- was saying -- yeah. 2 A. Yeah, I think he -- 3 MS. MURPHY: Objection. 4 THE WITNESS: Sorry. 5 MS. MURPHY: Go ahead. 6 A. I think he's musing about it, so it does make 7 me wonder if he appreciated the, you know, the 8 conditions -- terms and conditions of the endorsement. 9 You'd have to ask him. 10 Q. (By Ms. Ochoa) Was coverage counsel hired 11 shortly after this email, if you know? 12 A. I can't remember exactly when counsel was 13 retained, but it could have been right around then 14 because it looks like people are talking about 15 attorneys. 16 Q. Do you know when Beazley hired counsel? 17 A. I don't specifically remember. 18 Q. Okay. All right. Here we go. 19 A. Yay. 20 Q. Last one. 21 A. Sorry. 22 Q. Don't act so excited. 23 (Exhibit V marked.) 24 Q. (By Ms. Ochoa) This appears to be the eighth 25 report by McLaren's that you received on or about</p>

<p style="text-align: center;">Page 222</p> <p>1 I, ANDREA MATOTT, have read the foregoing deposition 2 and hereby affix my signature that same is true and 3 correct, except as noted above</p> <p>4</p> <p>5</p> <p>6 <u>ANDREA MATOTT</u></p> <p>7</p> <p>8 THE STATE OF _____ 9 COUNTY OF _____</p> <p>10</p> <p>11 Before me, _____, on this day personally 12 appeared ANDREA MATOTT, known to me (or proved to me 13 under oath or through _____) (description of 14 identity card or other document)) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the 15 purposes and consideration therein expressed.</p> <p>16 Given under my hand and seal of office this _____ day of _____.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 NOTARY PUBLIC IN AND FOR THE STATE OF _____ COMMISSION EXPIRES: _____</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 223</p> <p>1 IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE</p> <p>2</p> <p>3 IN RE: * * 4 RS FIT NW LLC, * Chapter 11 Debtors. * * Case No.: 20-11558 (KBO)</p> <p>5 24 HOUR FITNESS * 6 WORLDWIDE, INC., * (Jointly Administered) Plaintiff. * * 7 VS. * * Adv. Proc. No. 20-51051 (KBO)</p> <p>8 CONTINENTAL CASUALTY * 9 COMPANY, ET AL., * Defendants. *</p> <p>10</p> <p>11 REPORTER'S CERTIFICATE 12 DEPOSITION OF ANDREA MATOTT 13 OCTOBER 11, 2022</p> <p>14</p> <p>15 I, CAROL JENKINS, Certified Shorthand Reporter in and for the State of Texas, hereby certify 16 that this transcript is a true record of the testimony 17 given by the witness named herein, after said witness 18 was duly sworn by me. 19 I further certify that the deposition 20 transcript was submitted on _____, 21 _____ to the witness or to the attorney for the 22 witness for examination, signature, and return to me by 23 _____, _____ 24 I further certify the amount of time used 25</p>
<p style="text-align: center;">Page 224</p> <p>1 by each party at the deposition is as follows: 2 Ms. Nat Ochoa - (04h09m) 3 Mr. Matthew S. Sarna - (00h00m) 4 Ms. Courtney Murphy - (00h00m) 5 Mr. Austin Westergom - (00h00m) 6 Ms. Marlie McDonnell - (00h00m) 7 Mr. Joel L. McNabney - (00h00m) 8 I further certify that I am neither 9 attorney nor counsel for, related to, nor employed by 10 any of the parties to the action in which this testimony 11 was taken. Further, I am not a relative or employee of 12 any attorney of record in this cause, nor do I have a 13 financial interest in the action. 14 SUBSCRIBED AND SWORN TO by the undersigned 15 on this the 17th day of October, 2022.</p> <p>16</p> <p>17</p> <p>18 CAROL JENKINS, CSR, RPR, CRR Certificate No. 2660 Date of Expiration: 8/31/2023 19 Nell McCallum &amp; Associates, Inc. Firm Registration No. 10095 20 718 Westcott Street Houston, Texas 77007 21 713.861.0203 22 23 24 25</p>	

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

3 IN RE: \*  
4 RS FIT NW LLC, \* Chapter 11  
5 Debtors. \*  
6 \_\_\_\_\_ \* Case No.: 20-11558 (KBO)  
7 24 HOUR FITNESS \*  
8 WORLDWIDE, INC., \* (Jointly Administered)  
9 Plaintiff, \*  
10 \*  
11 VS. \*  
12 \* Adv. Proc. No. 20-51051 (KBO)  
13 CONTINENTAL CASUALTY \*  
14 COMPANY, ET AL., \*  
15 Defendants. \*

REPORTER'S CERTIFICATE

DEPOSITION OF ANDREA MATOTT

OCTOBER 11, 2022

15 I, CAROL JENKINS, Certified Shorthand  
16 Reporter in and for the State of Texas, hereby certify  
17 that this transcript is a true record of the testimony  
18 given by the witness named herein, after said witness  
19 was duly sworn by me.

20 I further certify that the deposition  
21 transcript was submitted on Oct. 17, 2022,  
22 \_\_\_\_\_ to the witness or to the attorney for the  
23 witness for examination, signature, and return to me by  
24 Nov. 17, 2022.

25 I further certify the amount of time used

NELL McCALLUM & ASSOCIATES, INC.

1 by each party at the deposition is as follows:

2 Ms. Nat Ochoa - (04h09m)

3 Mr. Matthew S. Sarna - (00h00m)

4 Ms. Courtney Murphy - (00h00m)

5 Mr. Austin Westergom - (00h00m)

6 Ms. Marlie McDonnell - (00h00m)

7 Mr. Joel L. McNabney - (00h00m)

8 I further certify that I am neither  
9 attorney nor counsel for, related to, nor employed by  
10 any of the parties to the action in which this testimony  
11 was taken. Further, I am not a relative or employee of  
12 any attorney of record in this cause, nor do I have a  
13 financial interest in the action.

14 SUBSCRIBED AND SWORN TO by the undersigned  
15 on this the 17th day of October, 2022.

16  
17   
18 CAROL JENKINS, CSR, RPR, CRR  
19 Certificate No. 2660  
20 Date of Expiration: 8/31/2023  
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24 Houston, Texas 77007  
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NELL McCALLUM & ASSOCIATES, INC.